

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSE MARMALEJOS,	:
Petitioner	:
v.	: Case No. 3:22-cv-136-KAP
COURT OF COMMON PLEAS OF	:
PHILADELPHIA COUNTY,	:
Respondent	:

Memorandum Order

On August 26, 2022, petitioner, imprisoned at S.C.I. Houtzdale, filed (without filing fee or motion to proceed *in forma pauperis*) a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the sentence imposed on him in Commonwealth v. Marmalejos, CP-51-CR-5964-2018; CP-51-CR-5469-2018; and CP-51-CR-5470-2018 (C.P. Philadelphia). Petitioner also sought a writ of mandamus but this court has no jurisdiction to issue the writ requested. Houtzdale is in the Western District of Pennsylvania and Philadelphia is in the Eastern District of Pennsylvania, so both districts have jurisdiction. *See* 28 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) (“§2241(d) provides that when a petitioner is serving a state criminal sentence in a State that contains more than one federal district, he may file a habeas petition not only ‘in the district court for the district wherein [he] is in custody,’ but also ‘in the district court for the district within which the State court was held which convicted and sentenced him’; and ‘each of such district courts shall have concurrent jurisdiction to entertain the application.’”) However, as petitioner notes, he already has a petition pending in the Eastern District of Pennsylvania at Marmalejos v. Commonwealth of Pennsylvania, Case No. 2:22-cv-1614-GAM (E.D. Pa.). See the attached docket sheet.

Pursuant to 28 U.S.C. § 1404(a), the Clerk shall forthwith transfer this petition to the United States District Court for the Eastern District of Pennsylvania for disposition as that Court deems appropriate, and mark this matter closed.

DATE: September 2, 2022

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Keith A. Pesto,  
United States Magistrate Judge

Notice by U.S. Mail to:

Jose Marmalejos QA-4385  
S.C.I. Houtzdale  
P.O. Box 1000  
Houtzdale, PA 16698